In re Application of Colleran et al.
Serial No: 10/722,717

REMARKS

The Office action has been carefully considered. The Office action objected to claim 10 as being unclear, and also rejected claim 10 under 35 U.S.C. § 101 as being directed to non-statutory subject matter, essentially for not being directed to tangible subject matter in view of the specification. The Office action also rejected claims 1-21 under 35 U.S.C. § 102(b) as being anticipated by Parthesarathy et al., U.S. patent no. 6,353,926, (hereinafter "Parthesarathy"). Applicants have herein amended claim 10 for clarification and to recite a tangible storage medium to expedite allowance, and have also amended claims 1-6, 10, 11, 13 and 15 for clarification and/or to further distinguish applicants invention from the prior art of record. Applicants submit that the claims as filed were patentable over the prior art of record, and that the amendments herein are for clarification purposes and/or for expediting allowance, and not in view of the prior art or for reasons related to patentability. Reconsideration is respectfully requested.

Prior to discussing reasons why applicants believe that the claims in this application are clearly allowable in view of the teachings of the cited and applied references, a brief description of the present invention is presented.

The present invention is generally directed to a technology that operates to remove the complexity involved with solving computer problems from both the perspective of users and a support entity. To this end, a user or other mechanism detects a particular type of computer-related problem with respect to a machine, such as a networking problem, a hardware device problem, a driver-related issue, a compatibility issue, a problem with a particular software program, and so forth.

7

In re Application of Colleran et al.
Serial No: 10/722,717

One or more tools are then run on the machine to collect data for diagnosing the
problem via data analysis to find a solution or set of solutions that resolve the
problem.

To determine which tools are needed for a problem, a user can provide
basic information, such as by filling out a form emailed or otherwise provided to a
support entity. The basic information may be analyzed by a person or
automatically to determine which tools are needed for that type of problem. Based
on the type of problem, an appropriate manifest is located, wherein the manifest
identifies the set of one or more tools that are needed to collect relevant data, and
may contain other information (e.g., parameters) needed to run the tools.

A control mechanism (e.g., an ActiveX® control) on the user machine (which
may be first downloaded if needed) executes each tool identified in the manifest.
The control mechanism first will download and install a given tool if not already
present on the user machine, and also may verify that any existing tool that is
installed is the correct version of that tool (e.g., the most recent version that is
appropriate for the particular operating system). The control mechanism also may
execute a program to package up the resulting data and deliver it to a central
support depository for analysis. If a known problem is detected from the data, a
solution can be sent to the user. The analysis process can be automated to an
extent, eliminating the need for support personnel in many situations.

Note that the above description is for example and informational purposes
only, and should not be used to interpret the claims, which are discussed below.

8

In re Application of Colleran et al.
Serial No: 10/722,717

Claim 10 - Objection and §101 Rejection

The Office action objected to claim 10, and also rejected claim 10 as being directed to non-statutory subject matter. Claim 10 has been amended to recite specific steps that are performed when instructions on a computer-readable medium are executed, thus overcoming the objection. Further, with respect to the non-statutory subject matter (§ 101) rejection, claim 10 has been amended to clarify that the computer-readable medium is a tangible computer-readable storage medium. Section 2106(IV)(B)(1)(a) of the MPEP states that functional descriptive material that is recorded on some computer-readable medium is structurally and functionally interrelated to the medium and is statutory since use of technology permits the function of the descriptive material to be realized. See *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and *In re Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim).

Applicants note that carrier waves and modulated signals are examples of data that may be interpreted by a computer (*i.e.*, a computer-readable medium) and may also be considered a product-by-process which is also statutory per se if the underlying process is statutory. Furthermore, the MPEP specifically states (section 2106(IV)(B)(1)(c)) that a signal claim directed to a practical application is statutory regardless of its transitory nature. See *O'Reilly*, 56 U.S. at 114-19; *In re Breslow*, 616 F.2d 516, 519-21, 205 USPQ 221, 225-26 (CCPA 1980). Recent

9

In re Application of Colleran et al.
Serial No: 10/722,717

court decisions have also held that "signals" are proper statutory subject matter.

See *Arrhythmia Research Technology, Inc. v. Corazonix Corp.,* 958 F.2d 1053, 22

USPQ.2d 1033 (CCPA 1992),(wherein the court held that the view that there is

nothing necessarily physical about "signals" is incorrect and that computer-program

related inventions can be claimed in terms of "signals" as computers operate

according to signals. In fact, anything that is being manipulated or transformed can

typically be drafted in terms of "signals").

As such, claim 10 was patentable as filed, but has been amended to

expedite allowance, rather than for reasons related to patentability. Applicants

submit that claim 10 is clearly directed to statutory subject matter and respectfully

request that the §101 rejection of this claim be withdrawn.

§102 Rejections

Turning to the §102 rejections, the Office action rejected claim 1 as being

anticipated by Parthesarathy. However, Parthesarathy is directed to determining

whether a computer system is eligible for a software update, and if so, provides a

way for a user to download that update.

As such, Parthesarathy is wholly unrelated to executing a set of one or more

tools to collect data for analysis with respect to diagnosing a detected type of

computer-related problem. By law, an anticipation rejection requires that a single

reference disclose each and every element recited in a claim, in the manner

arranged as in the claim. Thus, Parthesarathy cannot support an anticipation

rejection of claim 1 as a matter of law.

10

In re Application of Colleran et al.
Serial No: 10/722,717

To the extent that not having a current update (as in Parthesarathy) can

somehow be interpreted as a "computer-related problem," (which applicants

strongly disagree, as the ability to install a software update is optional, see

Parthesarathy, column 6, lines 20-21, demonstrating there is no problem requiring

diagnosis), Parthesarathy still fails to anticipate claim 1. For example, claim 1

recites "providing a selected manifest chosen from among a plurality of manifests

based upon a detected type of computer-related problem." There is only one

reference to a manifest in Parthesarathy, and that lone manifest declares

dependencies among software components (Parthesarathy, column 6, lines 48-59):

> The OSD vocabulary can be used in a stand-alone XML manifest file
> to declare the dependencies between different software components
> for different operating systems and languages. The OSD file provides
> instructions that can be used to locate and install only the required
> software components depending on the configuration of the target
> machine and what software is already present. The OSD formatted
> manifest file can also be embedded in an archive file, such as a Java
> Archive (.JAR) file, or a composite, compressed file such as a cabinet
> (.CAB) file, that contains the distribution unit to form a distribution unit
> file.

Thus, the manifest of Parthesarathy is clearly not "selected from among a

plurality of manifests," let alone "chosen from among a plurality of manifests based

upon a detected type of computer-related problem" as plainly recited in claim 1.

Further, the manifest of Parthesarathy does not identify "a set of at least one tool

that when executed collects data for analysis with respect to diagnosing the

computer-related problem" as also plainly recited in claim 1. Parthesarathy

clearly fails to anticipate claim 1 as a matter of law for at least these additional

11

In re Application of Colleran et al.
Serial No: 10/722,717

reasons. Reconsideration and withdrawal of the rejection of claim 1 based on Parthesarathy is respectfully requested.

Applicants respectfully submit that dependent claims 2-9, by similar analysis, are allowable. Each of these claims depends either directly or indirectly from claim 1 and consequently includes the limitations of independent claim 1. In addition to the limitations of claim 1 noted above, these dependent claims include additional patentable elements.

Turning to the next independent claims, amended claims 10 and 11 are also patentable over Parthesarathy. Claim 10 recited steps at least similar to those of claim 1, and is thus patentable for at least the reasons set forth above with respect to claim 1.

Regarding claim 11, applicants submit that claim 11 recites "a set of available tools, the tools configured to collect data from a machine with respect to diagnosing computer-related problems." Claim 11 also genearily recites that the subset of tools was selected based on a particular type of detected computer-related problem.

In contrast, Parthesarathy is unquestionably not directed to diagnosing computer-related problems, and for at least this reason cannot support an anticipation rejection. Moreover, Parthesarathy does not teach selecting tools, let alone a subset of tools that was selected based on a particular type of detected computer-related problem, as plainly recited in claim 11.

To reiterate, by law, an anticipation rejection requires that a single reference disclose each and every element recited in a claim, in the manner arranged as in

12

In re Application of Colleran et al.
Serial No: 10/722,717

the claim. Thus, Parthesarathy, which does not teach or even suggest the
elements plainly recited in claim 11, cannot support an anticipation rejection of
claim 11 as a matter of law. Reconsideration and withdrawal of the rejection of
claim 11 based on Parthesarathy is respectfully requested.

Applicants respectfully submit that dependent claims 12-21, by similar
analysis, are allowable. Each of these claims depends either directly or indirectly
from claim 11 and consequently includes the limitations of independent claim 11.
In addition to the limitations of claim 1 noted above, these dependent claims
include additional patentable elements.

For at least the foregoing reasons, applicants submit that all the claims are
patentable over the prior art of record. Reconsideration and withdrawal of the
rejections in the Office action is respectfully requested and timely allowance of this
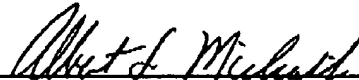application is earnestly solicited.

13

In re Application of Colleran et al.
Serial No: 10/722,717

CONCLUSION

In view of the foregoing remarks, it is respectfully submitted that claims 1-21

are patentable over the prior art of record, and that the application is in good and

proper form for allowance. A favorable action on the part of the Examiner is

earnestly solicited.

If in the opinion of the Examiner a telephone conference would expedite the

prosecution of the subject application, the Examiner is invited to call the

undersigned attorney at (425) 836-3030.

Respectfully submitted,

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14

In re Application of Colleran et al.
Serial No: 10/722,717

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this Response, along with transmittal and facsimile

cover sheet, are being transmitted by facsimile to the United States Patent and

Trademark Office in accordance with 37 C.F.R. 1.6(d) on the date shown below:

Date: September 12, 2006

Albert S. Michalik
Albert S. Michalik

4060 Amendment

15